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Supreme Court of the United States.

OCTOBER TERM, 1899.

Filed April 9, 1900.

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THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL.,
Plaintiffs in error,

vs.

WIRT ADAMS, State Revenue Agent.

In error to the Supreme Court of the State of Mississippi.

BRIEF ON BEHALF OF PLAINTIFFS IN ERROR.

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WASHINGTON, October Term, 1899.

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Statement of the case.

This writ of error presents for review a final judgment of the Supreme Court of Mississippi (record, p. 43), which affirmed a judgment in favor of Wirt Adams as state revenue agent, against the Yazoo and Mississippi Valley Railroad Company, one of the plaintiffs in error, based upon certain taxes levied against the railroad company by cities and towns along its route for the twelve years from 1886 to 1897, inclusive. The Yazoo Company (*id.*, p. 17) denied its liability to pay these taxes upon the ground of an exemption embodied in section 8 of its charter, granted February 17, 1882, whereby it was provided as follows:

> "That in order to encourage the investment of capital in the works which said company is hereby authorized to construct and maintain, and to make certain in advance of such investment, and as an inducement and consideration therefor, the taxes and burdens which this State will and will not impose thereon, it is hereby declared that said company, its stock, its railroads and appurtenances, and all its property in this State,

necessary or incident to the full exercise of all the powers herein granted—not to include compresses and oil mills—shall be exempt from taxation for a term of twenty years from the completion of said railroad to the Mississippi river, but not to extend beyond 25 years from the date of the approval of this act; and when the period of exemption herein prescribed shall have expired, the property of said railroad may be taxed at the same rate as other property in this State. All of said taxes to which the property of said company may be subject in this State, whether for county or State, shall be collected by the treasurer of this State and paid into the State treasury, to be dealt with as the legislature may direct; *but said company shall be exempt from taxation by cities and towns*" (record, p. 34).

This same section of the charter was considered in *Yazoo Railroad Co.* v. *Thomas*, 132 U. S. 174, where the question related to exemption from state and county taxes, and it was held that the exemption from taxation for such purposes was conditional and did not take effect until the completion of the railroad to the Mississippi river. The plaintiffs in error have always heretofore insisted, with the acquiescence of the state departments, and now contend, that the concluding portion of the section above quoted confers an unconditional exemption "from taxation by cities and towns," and that it is not dependent upon the construction of the road to the Mississippi river. The taxes in question were imposed under the authority of general tax legislation of the State of Mississippi adopted in 1892 and 1894, and also under certain municipal charters (appendix, pp. i, ii), which, being subsequent to the charter conferring the exemption, impair, as enforced below, the contract in violation of section 10 of Article I of the Constitution of the United States.

The action was originally brought on July 7, 1897, by Wirt Adams above named, as state revenue agent, in the Circuit Court of Hinds County, Mississippi, to recover city and

town taxes for the years 1893 to 1896, inclusive, and the defendant demurred to the declaration as "not sufficient in law" (record, p. 5). The demurrer was sustained "on the ground that the exemption claimed by defendant in its charter of incorporation is perpetual and unconditional as to municipal taxes" (*ib.*). An appeal was taken by the state revenue agent to the Supreme Court of Mississippi, where the judgment was reversed on the ground that the exemption as to all taxation contained in the charter was conditional and dependent upon the completion of the railroad to the Mississippi river (*id.*, pp. 7, 8, 9). The cause having been remanded for a new trial, leave was granted the state revenue agent to so amend his declaration as to include city and town taxes for the years 1886 to 1892, inclusive, and for the year 1897, which was accordingly done (*id.*, p. 10 *et seq.*), so that the suit involves back taxes for twelve years. The railroad company pleaded, *first*, the general issue, and also filed special pleas as follows: *second*, to the effect that its railroad was completed to the Mississippi river on October 25, 1892, by means of the consolidation between it and the Louisville, New Orleans and Texas Railway Company, which was the owner of certain railroads reaching the Mississippi river (*id.*, p. 17); *third*, setting up an ordinance of the city of Jackson, passed May 5, 1882, whereby its property was "released from all city taxation for twenty years from date," on condition that Jackson be selected as a southern terminus of the Yazoo and Mississippi railroad, and also that work on said road be commenced within one year and completed within three years to Yazoo City, and alleging its compliance with said conditions (*id.*, p. 18); *fourth*, setting up specifically its charter exemption as a contract with the state under which its railroad had been built (*id.*, p. 21).

Demurrers to the second, third and fourth pleas having been sustained (record, pp. 23, 24, 42), the action was tried by jury upon the issues raised by the plea of the general issue, the trial resulting in a judgment against the railroad company (*id.*, p. 25), from which a second appeal was taken to the Supreme Court of the state, where the judgment was affirmed (*id.*, p. 43). The present writ of error was sued out to review that judgment, and was allowed by the Chief Justice of Mississippi (*id.*, p. 45), who certified that the validity of the subsequent tax legislation was drawn in question as repugnant to section 10 of Article I of the Federal Constitution (*id.*, p. 46).

Jurisdiction of this court.

So far as the jurisdiction of this court is concerned, the cognate case of *Yazoo Railroad Co.* v. *Thomas*, 132 U. S. 174, should be conclusive. The contract involved is the same. The subsequent tax legislation is similar in effect. The only appreciable difference between the two cases is that in the former suit the question was at what time the exemption as a whole began to run, and in this suit the question is whether another portion of the exemption is or is not limited and conditional. The federal question was distinctly raised, and the court below could not have reached the conclusion adverse to the railroad company without deciding it (record, p. 21). The case of *Keokuk & Western Railroad* v. *Missouri*, 152 U. S. 301, is also directly in point upon this question. In both these cases motions to dismiss were denied. See, also, *Mobile & Ohio Railroad* v. *Tennessee*, 153 U. S. 486, 495, and *McCullough* v. *Virginia*, 172 U. S. 102, 116. In the latter case, the opinion in *Yazoo Railroad Co.* v. *Thomas*, *supra*, was quoted with approval.

Specification of errors.

The plaintiffs in error assert and intend to urge and rely upon the following errors of the court below, viz.:

1. That the court erred in holding that the provision in question did not constitute a contract for unconditional exemption from taxation by cities and towns.

2. That the court erred in permitting a recovery of taxes levied by cities and towns under and by virtue of laws passed subsequent to the charter of the plaintiff in error, and in thereby giving effect to statutes which impaired the obligation of the contract.

The questions to be considered are as to the validity of the exemption and as to its true interpretation.

I.

THE CHARTER GRANTS A VALID EXEMPTION UNDER THE CONSTITUTIONS OF MISSISSIPPI.

In the case at bar, precisely as commented on by Mr. Chief Justice Fuller in the case of *Yazoo Railroad Co.* v. *Thomas*, 132 U. S. 174, 184, "the Supreme Court of Mississippi did not put its decision upon the ground that it was not competent under the state constitution for the State to contract with the company that the latter should not be subjected to taxation, but upon the ground that the exemption claimed could not be allowed." The only question then discussed or decided by the state court and by this court on that writ of error was the construction of the contract of exemption. So, here, the only question discussed or decided below was as to the true construction of the contract of exemption, and it was assumed that the contract was constitutional (record, pp. 7, 43). No question as to the constitutional power of the legislature to grant the exemption was deemed to be involved. Under these circumstances, it is assumed that this court may properly confine its examination of the judgment under review to the precise point of statutory construction

upon which the case turned in the court below and the alleged impairment of the contract as properly construed, and that any consideration of the validity of the contract of exemption under the state constitution of 1869 may well be deferred until the state court shall see fit to pass squarely upon that point. In other words, the rule ought to be that, where the state court does not decide that the statute is unconstitutional, but merely interprets it as not conferring the alleged contract right, and thus treats the contract as valid and subsisting, this court will not investigate the constitutionality of the statute, and will confine itself to the questions decided below.

But if the court may, nevertheless, now consider and determine the constitutional validity of the contract contained in section 8 of the charter of the Yazoo Company, it is submitted that this contract of exemption from taxes by cities and towns is in no wise obnoxious to or violative of any provision of the Mississippi constitution of 1869, and that, being valid under that instrument, the exemption has been expressly confirmed and continued by the state constitution of 1890.

As early as 1878, four years before the granting of this charter, the Supreme Court of Mississippi in the case of *Mississippi Mills* v. *Cook*, 56 Miss. 40, 52, construing the provisions of section 13 of article XII of the constitution of 1869, determined that this section did not of itself prohibit exemptions, but only declared the liability of corporations to taxation in the discretion or judgment and subject to the control of the legislature. This authoritative construction of the constitution, subsequently reiterated, became as much a part of the constitution of 1869 as the text itself. *Douglass* v. *County of Pike*, 101 U. S. 677. That this construction of the meaning of

the constitution of 1869 was not strained or unreasonable is shown by the legislation of Mississippi for many years prior to the adoption of that constitution, from which it appears that the legislature, when granting charters of incorporation, had often thought it necessary to provide that the corporations should be "subject to taxation" in terms either precisely like those adopted in the constitution of 1869, or having the same effect in substance. The construction adopted in *Mississippi Mills* v. *Cook*, therefore, involved no departure or change or new rule as to corporate taxation. It simply recognized that the constitution had made that general which before had been special, and had embodied this common provision of liability to taxation, instead of leaving it to be dealt with by changing legislatures in each particular case. Many of these acts are referred to in the appendix (pp. iv, v), and contain conclusive evidence of the meaning which was generally attributed in the legislation of Mississippi to the clause under consideration when the constitution of 1869 was adopted. The rule was analogous to that laid down in Massachusetts and Pennsylvania, where the property of railroad and other companies serving a public purpose was held not subject to taxation under general statutes. *Inhabitants of Worcester* v. *The Western Rail Road Corporation*, 4 Met. 564, 566; *Lehigh Coal and Navigation Company* v. *Northampton County*, 8 W. & S. 334, 338. The framers of the constitution of 1869 undoubtedly intended to subject all corporations to the power of taxation under the general tax laws, but with discretion in the legislature to grant, as theretofore had been the constant practice, repealable or limited exemptions.

And this was the uniform and consistent practice of the legislature. Thus, at almost every session held between

the adoption of the constitution of 1869 and the adoption of the constitution of 1890, exemptions from taxation were granted, not only to railroad companies, but to other corporations for profit, which were supposed to serve in some sense a public purpose. The acts granting these appropriations are referred to in the appendix (pp. vi–xi), and exhibit a fixed and consistent course of legislation upon this subject. We may form some idea of the extent of this policy of exemption from the fact that between the years 1870 and 1890, inclusive, at least one hundred and twenty acts were passed granting exemptions to various corporations. These acts amount to a legislative construction of the highest authority respecting the true meaning of this portion of the constitution of 1869, and ought to receive much weight in determining not only the proper interpretation of the constitution of 1869, but what the exemptions were which the constitution of 1890 intended to ratify and continue.

The same view of the validity of these exemptions prevailed in the other departments of the state government. The executive officers of the state, including its law officers, uniformly, for fully twenty years, adopted the same construction and consistently acted upon it. In the judicial department the decision in *Mississippi Mills* v. *Cook*, *supra*, was followed without break for twenty years, as will be seen by reference to the following cases involving, in one way or another, the question of the constitutionality of exemptions under the constitution of 1869: *McCulloch et al.* v. *Stone*, 64 Miss. 378; *Y. & M. V. R. R. Co.* v. *Thomas et al.* 65 Miss. 553; *Vicksburg Bank* v. *Worrell*, 67 Miss. 47; *Attala County* v. *Kelly*, 68 Miss. 4[illegible]; *L., N. O. & T. Ry. Co.* v. *Taylor*, 68 Miss. 361; *Railroad Co.* v. *Lambert*, 70 Miss. 779.

This long continued practice of the legislative, executive and judicial departments ought to be most convincing as to the legality of these exemptions. No rule of interpretation is better settled in this court than that which gives to such practice and interpretation great weight. In *The Laura*, 114 U. S. 411, 416, Mr. Justice Harlan, citing *Stuart* v. *Laird*, 1 Cranch, 299, 308, said:

> "Touching the objection now raised as to the constitutionality of the legislation in question, it is sufficient to say, as was said in an early case, that the practice and acquiescence under it, 'commencing with the organization of the judicial system, affords an irresistible answer, and has indeed fixed the construction.'"

And in *Ogden* v. *Saunders*, 12 Wheat. 213, 290, Mr. Justice Washington said that the doctrine

> "proceeds upon the presumption, that the cotemporaries of the constitution have claims to our deference on the question of right, because they had the best opportunities of informing themselves of the understanding of the framers of the constitution, and of the sense put upon it by the people when it was adopted by them."

In view of the fact that the investment by stockholders and creditors of the Yazoo Railroad Company was clearly made in reliance upon this established practice as to exemptions and of the authoritative interpretation of the highest court of the state affirming the constitutional power to exempt, the following language of Mr. Justice Swayne in *Township of Pine Grove* v. *Talcott*, 19 Wall. 666, 677, is singularly applicable:

> "When the bonds were issued, there had been no authoritative intimation from any quarter that such statutes were invalid. The legislature affirmed their validity in every act by an implication equivalent in effect to an express declaration. And during the period covered by their enactment, neither of the other departments of the government of the State lifted its voice against them. The acquiescence was universal."

See, also, *Briscoe* v. *The Bank of the Commonwealth of Kentucky*, 11 Pet. 257, 318; *Prigg* v. *The Common-*

wealth of Pennsylvania, 16 Pet 539, 619; *Cooley* v. *Board of Wardens of Port of Philadelphia et al.* 12 How. 299, 315; *Auffmordt* v. *Hedden*, 137 U. S. 310, 329; *Schell's Executors* v. *Fauché*, 138 U. S. 562, 572; *Field* v. *Clark*, 143 U. S. 649, 691; *McPherson* v. *Blacker*, 146 U. S. 1, 27; *Kennedy* v. *Gies*, 25 Mich. 83, 92. The Mississippi authorities are to the same effect: *Daily* v. *Swope, Guardian, etc.* 47 Miss. 367, 383; *French* v. *The State*, 52 Miss. 759, 762; *Shotwell* v. *Covington*, 69 Miss. 735, 738; *Chrisman* v. *Brookhaven*, 70 Miss. 477, 483.

As Simrall, J., said in *Hawkins et al.* v. *Caroll Co.* 50 Miss. 735, 752 (1874):

> "At the time of the adoption of the constitution, the power of the legislature to authorize municipal aid to these enterprises, coupled with the delegated authority of taxation, was well established, both by legislative precedents and judicial decisions in this and the other states."

And Mitchell, J., said in *State* v. *Luther*, 56 Minn. 156, 164:

> "This amounted to a legislative construction of the constitution, which of itself would be entitled to great weight."

The Supreme Court of California said in *Emery* v. *Reed*, 65 Cal. 351:

> "We have frequently said that, with respect to laws passed under the late Constitution, the construction put upon them by the highest court in existence under it, would be accepted by us without regard to our own views in respect to the correctness or incorrectness of that construction."

It is particularly worthy of note that in both the cases involving the charter under consideration[1], the Mississippi court has preferred to place its decision upon the construction of the charter. Not until the decision of the Mississippi Supreme Court in *Adams* v. *Yazoo & Mississippi*

[1]This case, 76 Miss. 545, 550 and *Yazoo & Mississippi Valley R. R.* v. *Thomas*, 65 Miss. 553, 562; S. C. 132 U. S. 174.

Valley Railroad Company (No. 244 on this docket) was the theory developed that all exemptions of corporate property were invalid.

II.

THE EXPRESS RATIFICATION CONTAINED IN THE CONSTITUTION OF 1890.

At the time of the adoption of the constitution of 1890, the validity of exemptions was so firmly established in Mississippi that there can be no reasonable doubt as to what the common understanding of the framers of the constitution was upon the subject. That constitution provided (section 181):

> "*Exemptions from taxation to which corporations are legally entitled at the adoption of this constitution, shall remain in full force and effect for the time of such exemptions as expressed in their respective charters, or by general laws, unless sooner repealed by the legislature.*"

It is clear that this provision of the new constitution was intended to apply to and preserve exemptions such as that involved in the case at bar, from the fact that, except in the case of two or three small private schools, altogether insignificant in the fiscal system of the state, there were in 1890 no corporations entitled to exemptions which had been granted prior to 1869. Exemptions had been commonly granted before that time, but they had either never been availed of, or had terminated by expiration of the period for which they were granted, or had lapsed for other cause.[1] Practically all corporate exemptions, therefore, such as are mentioned in section 181 of the new constitution, must necessarily have been granted under the constitution of 1869, and these were the exemptions which the framers of the constitution of 1890 had in mind and which they intended to protect in good faith.

[1] The exemption of the Mobile and Ohio Railroad Company had been surrendered in 1882 in consideration of a release by the state of a debt due it from the company, amounting to over $300,000. Appendix Senate Journal, 1882, Governor Lowry's message.

Surely, the use of the word *legally* was not intended to deprive the section of all practical force and effect or to conceal a snare.

In *State* v. *Luther*, 56 Minn. 156, 164, it appeared that after a continuous course of legislation in respect to commuted taxation upon corporations, which was said to amount to "a legislative construction of the constitution, which of itself would be entitled to great weight," a constitutional amendment was adopted providing for the submission of any law for the repeal of such statutes respecting commuted taxation to a vote by the people. Mitchell, J., said:

> "This language must have been selected and this amendment adopted with reference to the existing legislation and the general legislative policy to which we have referred; and, read and construed in that light, it amounts to a clear recognition of the validity of existing laws providing for this commuted system of taxation of railroad property and lands, and of legislative power to enact such laws for the future. If it did not refer to this, there was nothing to which it could refer. It is, by necessary implication, a validation of past legislation of that kind, and a grant of power to enact it in the future."

The legality of exemptions in Mississippi under the constitution of 1869 had been declared and upheld prior to 1890 by at least four decisions of the highest tribunal of the state. The constitution of 1890, therefore, referred to a class of exemptions sanctioned by the legislative practice of many years under the constitution in force, permitted by the universally accepted construction of that constitution, and confirmed and declared by the highest state court. These were the exemptions "to which corporations are legally entitled." The language of section 181 fairly applies to no other subject-matter.

No more persuasive union of all canons of constitutional construction and interpretation can well be imagined

than are found in this case as to the legislative power to grant exemptions, namely, (1) a common course of legislation evincing the universally entertained view of corporate liability to taxation, and recognizing the necessity for providing that corporations should be "subject to taxation," which view continued for many years; (2) the adoption of that view of liability to taxation in the constitution of 1869; (3) a judicial inquiry into the validity of claims for exemption, and a judicial declaration of their validity; (4) common and long-continued legislative recognition, under the constitution of 1869, of the legality of the exemption and repeated refusals by the legislature to repeal such exemptions; (5) continuous acquiescence by the executive department and by those charged with the collection of taxes; and (6) a subsequent constitution, dealing with existing exemptions necessarily created under the constitution of 1869, and confirming those to which corporations were "legally entitled" In truth, the convention which adopted the constitution of 1890 could not have indicated more plainly that it meant to confirm and continue such exemptions as that claimed by this plaintiff in error if it had specifically named and included them in that instrument.

This charter contract of exemption, if valid, is clearly impaired by the subsequent state legislation of 1892 and 1894, and by the municipal charters, under the authority of which, and not otherwise, the state revenue agent has prosecuted the suits resulting in the judgment now under review.

The question then remains whether, under a proper construction of the section of the charter containing the exemption, the plaintiff in error is unconditionally exempted from "taxation by cities and towns," or whether

this particular part of the exemption is dependent upon the completion of the railroad to the Mississippi river.

III.

THE CHARTER CONFERS AN UNCONDITIONAL EXEMPTION FROM TAXATION BY CITIES AND TOWNS.

Section 8 of the charter, after granting an exemption "for a term of twenty years from the completion of said railroad to the Mississippi river," and providing that, after the expiration of the period of exemption, "the property of said railroad may be taxed at the same rate as other property in this State," contains the separate and distinct provision, "but said company shall be exempt from taxation by cities and towns." The last-quoted provision is found at the end of the section, and follows a provision relating solely to the collection and disposition of state and county taxes upon the property of the company.

There can be no doubt that taken alone, the last clause of section 8 confers an unconditional exemption from taxation by cities and towns. Such is the plain import of its language. It is, however, contended that the preceding portions of the section show that the exemption is conditioned upon the completion of the railroad to the Mississippi river; and the Supreme Court of Mississippi, adopting this view, based its decision upon the following grounds: first, that no reasonable explanation could be suggested for an unconditional exemption of the railroad company from taxation by cities and towns, while the exemption from state and county taxation was limited and conditional; second, that the entire concluding sentence of the section does not refer to the preceding exemption from state and county taxation, but is an effort to create a peculiar scheme of taxation; and, third, that a literal construction of this clause of exemption would embrace

all property of the railroad company, whether necessary for its operations or not. To this reasoning, the answers are, first, that the legislature of Mississippi has repeatedly laid down rules for municipal taxation differing from those for state and county taxation, thus recognizing the distinction between the two powers, and that there were in the present instance substantial reasons for a difference in the application of the exemption; second, that the only construction which will give effect to the clause in question results in unconditional exemption, and that it is immaterial if the result may be to create a peculiar scheme; and, third, that the exemption, if construed to be unconditional, would not extend to property not necessary for the operations of the railroad company, and, even if it did, that consideration cannot change the effect of the language used by the legislature.

First. The people and the legislature of Mississippi have during a long period consistently treated the three powers of taxation, state, county and municipal, as differing in their nature because obviously affecting different interests, and have often prescribed regulations as to municipal taxation differing widely from the regulations as to county and state taxation (constitution of 1890, section 192; section 2956 of the annotated code of 1892; revenue law of 1890, laws of 1890, pp. 9, 11. Statutes are cited in the appendix (pp. iii., iv.) which show the broad distinction constantly drawn between the imposition of state and county taxes upon the one hand and of municipal taxes upon the other hand. In the constitution of 1869 itself there was a distinct provision in respect to the right of counties to lay special taxes (appendix, p. xi.). At almost every session of the legislature, exemptions have been granted discriminating sharply between these different

burdens in almost every conceivable way, as will be seen by reference to the appendix, pp. v., vi.

In *Daily* v. *Swope*, *Guardian*, *etc.* 47 Miss. 367, 379 (1872), Simrall, J., emphasized the distinction which had prevailed between state and city taxation by saying:

> "It is quite well known, too, that the system of taxation in the city has greatly differed from that used by the state, both as to rate and apportionment. This has always been so. Long experience has approved the policy."

Now, the fundamental inquiry is, of course, to ascertain the intention of the legislature as we may gather it from the language used in this act and from other statutes *in pari materia*. Both sides agree that it was the *intention* to grant exemptions from taxation by state and counties, as well as by cities and towns. On the one hand, the contention of the state revenue agent is that it was the *intention* of the legislature that all these three established and differing forms or methods of taxation, namely, (1) by state, (2) by counties, and (3) by cities or towns, should be alike and equally subject to the condition of the "completion of said railroad to the Mississippi river." On the other hand, the contention of the plaintiff in error is that the legislature clearly intended a difference; that the language used obviously indicates this, and that otherwise the present language would not have been used.

In order to adopt the contention of the revenue agent, we must conclude, first, that the legislature intended that the prior provision "shall be exempt from taxation for a term of twenty years" should include "taxation by cities and towns"; and, secondly, that the separate and distinct provision at the end of section 8, "but said company shall be exempt from taxation by cities and towns," has absolutely no significance, and expresses no thought or intention in addition to what had been previously expressed.

Of course, the rules are perfectly well established that effect should be given to every part of a statute and no part disregarded (*Market Co.* v. *Hoffman*, 101 U. S. 112, 115; *Bernier* v. *Bernier*, 147 U. S. 242, 246); that, if there be any apparent inconsistency or clashing or ambiguity, the last sentence or expression is to be given preference, and that general terms must be read in connection with and as limited by particular provisions (Endlich on Interpretation of Statutes, sec. 399), especially if the particular provisions tend to modify the general terms. These well-established canons of interpretation, which experience has shown to be safe guides, must be disregarded if the view of the court below is now to be approved. But if we adopt the interpretation of the railroad company, which was the practical construction for more than a decade by the state and municipal authorities themselves, and by the officers particularly charged with the enforcement of the law (*Edwards' Lessee* v. *Darby*, 12 Wheat. 206, 210; *Union Insurance Company* v. *Hoge*, 21 How. 35, 66; *Havemeyer* v. *Iowa County*, 3 Wall. 294, 303; *United States* v. *Moore*, 95 U. S. 760, 763; *Heath* v. *Wallace*, 138 U. S. 573, 582), we follow the settled canons above mentioned, and give due effect to every word found in section 8.

Perhaps the strongest evidence of the intention of the legislature of 1882 is to be found in the difference in phraseology between the charter under consideration and other charters granted at the same session. The charters of the Yazoo and Mississippi Valley and the Canton, Aberdeen and Nashville Railroad Companies, passed upon the same day, contain identical provisions as to taxation and exemption; and this language was used by the legislature in several other charters granted at that session (see appendix, p. 111). But, when the same legislature decided to limit the exemp-

tion from municipal taxation in point of time, it inserted in certain other charters provisions expressly restricting such exemption. In one case, the proviso was as follows: "*provided*, the exemption in towns and cities shall not be more than twenty years."[1] In another act the proviso was: "*provided*, that this act shall not prevent the city of Meridian from levying municipal taxes on said railroad and its property, after the exemption period of twenty years shall have expired."[2] In still a third charter the exemption from municipal taxation was thus limited: "*provided*, the municipal authorities of the city of Meridian may impose such taxes on said railroad company and its property of every description as may be imposed on other railroads and property of like character after the said period of exemption of twenty years *have* expired."[3]

It thus appears that not only did the legislature repeatedly make use of a distinction between these forms of taxation, but also that the very legislature which passed the charter now under consideration, whenever it desired to limit the term of an exemption from municipal taxation, did so in express and unmistakable terms.

Moreover, for many years, and at the time of the adoption of the constitution of 1890, the practical construction of the Yazoo Company's charter had been that the exemption from taxation by cities and towns was unconditional, and the various departments of the state government had uniformly sanctioned such a construction and had acted thereon, showing ample recognition of and acquiescence in the practical difference between the two forms of taxation.

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[1] Laws Mississippi, 1882, c. 551, sec. 27, p. 975.
[2] Laws Mississippi, 1882, c. 549, sec. 22, p. 959.
[3] Laws Mississippi, 1882, c. 568, sec. 22, p. 1065.

There were, in the present case, ample reasons for the exercise of this discrimination, and for making the exemption absolute as to one form of taxation and limited as to the others. In 1882, the State of Mississippi had for many years been attempting to improve its means of communication with outside markets. Prior to that time, existing conditions had made it almost impossible to obtain the construction of railroads in the Mississippi delta, forming about one-sixth of the state. At the session of 1882, the legislature passed sixteen acts incorporating railroad companies, and every one of these charters was granted with a view to obtaining for the inhabitants of the state the advantages which would flow from closer connections with the avenues of interstate commerce, not the least of which would be the benefit of competitive freight rates. The future prosperity of the state depended absolutely upon increased facilities for transportation of cotton, its great staple commodity. The legislature in granting this charter was providing for the construction of one or more railroads from the existing line of the Chicago, St. Louis and New Orleans railroad to the Mississippi river, a distance of from fifty to ninety miles, thus connecting two great routes of state and interstate commerce. Provision was also made for from one to three lines of road running north and south throughout the entire length of the state, and for an unlimited number of branches, not to exceed one hundred miles in length. The charter in fact authorized the company to create a complete network of tracks over the entire western half and more thickly populated part of the state. Prior to 1882 the only railroads in that portion of the state known as the Mississippi river basin were two small disconnected narrow-gauge roads aggregating one hundred miles in length. This extensive territory,

extending one hundred and eighty miles north and south and about sixty miles east and west, and containing the richest lands of the state, was thus dependent for internal communication upon imperfect turnpikes or highways, except so far as the Yazoo river provided a limited means of navigation. A map issued by the post-office department, upon which the mail service in this region is indicated as of January 1, 1880, shows that except on the Mississippi river mail service was generally restricted to once a week. In a few cases a service of twice a week was maintained. In two counties only was mail conveyed as often as three times a week.

The railroad of the Yazoo Company was built, beginning at Jackson, a station on the Chicago, St. Louis and New Orleans railroad, and continuing through Yazoo City and Greenwood to Parsons, in order to afford local railroad facilities to a number of towns and cities which had not theretofore had any means of railroad communication either with each other or with the "railroad system of the country."[1] Although the line was not completed to the Mississippi river and thus did not earn the exemption from state and county taxes, it nevertheless did fulfil a very evident and important part of the plan, by providing for these scattered municipalities facilities for the carriage of freight and passengers, frequent mails, and all the other advantages which can only be afforded by railroad communication and by "connecting them by railroads and branches with other railroads" (see preamble to charter). Moreover, the one piece of railroad which by the charter (sec. 2, end of

[1] Preamble to charter, record, p. 27. Indeed, the preamble speaks of connecting the alluvial lands of the state "by railroads and branches with other railroads west, east, north and south," and states that the physical difficulties have been such "that no private company has so far been able to establish a railroad and branches developing said basins and alluvial lands, and connecting them with the railroad system of the country."

first paragraph[1]) was required to be "extended to or to pass through Yazoo City," was so built not only from Jackson to Yazoo City, about forty-five miles, but it was extended beyond to Parsons, a distance of about one hundred miles from Jackson; and it was also connected by means of a branch from Tchula to Lexington with the West and East railroad and in this manner again with the C., St. L. & N. O. railroad at Durant, thus affording to towns on the Yazoo and Mississippi Valley railroad a direct route to the eastern part of the state by way of the Canton, Aberdeen and Nashville railroad and its connections.

There is, in the very nature of things, a broad distinction between a local railroad merely connecting small cities and towns with each other, and a general system reaching out and joining together important and competing routes of commerce between the states. A legislature might naturally and wisely declare that it would not exempt a railroad company from state or county taxation until it formed such a connecting link as to become helpful and profitable to the whole state and to all of the counties through which it ran, by affording speedy communication and the advantages of through competing rates; while at the same time there would be adequate reason for freeing the road from the burden of taxation by cities and towns which would benefit largely and immediately by its construction, irrespective of a final completion to the proposed terminus at the Mississippi river.

The charter (section 2) clearly makes this distinction by first requiring the building of the line to "the Mississippi river at or near a point opposite Arkansas City *if practicable*, so as to connect such point . . . with some point or points on the line of the Chicago, St. Louis and New

[1] Record, p. 28.

Orleans Railroad" and then immediately providing that "one of said lines, or a branch therefrom, to be extended to or pass through Yazoo City," *without adding the words "if practicable."*

Moreover, the difficulties of construction in the Yazoo delta were so great that the exemption from state and county taxation might well be withheld unless this more expensive and hazardous portion of the work should be assured and completed. Special inducements might be offered to secure this end. But the construction of the road to or between any cities and towns in the populous and high-land district, through a settled country, was much simpler and less costly and could not fail to be of immediate and appreciable benefit to their inhabitants, which might well be recompensed by an exemption from local taxation, leaving the other portion of the exemption to be earned by a completion of the broader scheme in which the whole state and the people of the counties were more vitally interested.

Second. The language of the last sentence of section 8, regarding taxes to be collected by the treasurer of the state and paid into the state treasury, is applicable to the taxes "whether for county or state," to which the property of the company might be subject, and, except that it occurs in the same section which deals with the exemption, has no logical connection with it. It was perhaps the intention to lay down as to state and county taxes a new rule for their collection and custody, and there is no reason why in connection with this new provision the legislature may not have seen fit to prescribe a still different rule as to taxation by cities and towns and to altogether relieve the company therefrom. If, as the court below held, the object of the

last part of the section was "to create a scheme of taxation peculiar to the road," the subsequent exemption from municipal taxation is not at all inconsistent with the scheme. This was not only a suitable place to insert a provision for unconditional exemption, but it was the place in which the draughtsman of a statute would naturally write the provision, and where the reader would first look for it.

The court will have to strike from the act the words "but said company shall be exempt from taxation by cities and towns" in order to arrive at the result claimed by the defendant in error; but the words cannot be left in the act, and full and adequate meaning be given to them, without arriving at the conclusion that an unconditional exemption was intended to be granted as to taxation by cities or towns, as the language used fairly imports, without regard to the provision in respect of state and county taxes.

The case of *Savannah* v. *Jesup*, 106 U. S. 563, 567, is strong authority for a construction of the act excluding taxation by cities and towns from the prior provisions of the section in question. In that case, the railroad company had formerly possessed an immunity from taxation except to a limited extent, which had, however, been taken away from it by the statute held to be constitutional in *Railroad Co.* v. *Georgia*, 98 U. S. 359. The later act provided for tax returns by railroad companies direct to a state official, for payment of taxes to him, and collection thereof by him. This court held that the effect of the act was to establish a system of taxation by the state for its benefit exclusively and that, therefore, the company was not liable to taxation by a city, although it was not expressly exempted. This conclusion was reached in spite of the fact that the act provided that the property of the company should be liable "to be taxed as

other property of the people of the state," somewhat similar to the provision of the Mississippi constitution of 1869. Mr. Justice Harlan said (p. 568):

> "The statute, thus imposing, in behalf of the State, taxes to be collected by its officer, and to be paid, when collected, into its treasury, provides no machinery by means of which the property of railroad companies may be taxed by municipal corporations for local purposes. No provision is made for taxation by the municipal authorities of counties, cities, and towns, through which the road passes, of such portion of the company's property as was within their respective limits. Nor is any provision made for the transmission by the comptroller-general to such local authorities of the returns made to him by railroad companies of their property for taxation. Had the statute done nothing more, in the cases of railroad companies whose charters were subject to legislative repeal or modification, than to withdraw the immunity from taxation theretofore enjoyed by them, there would be more force in the position taken by the city of Savannah. But such is not the case; for, in the same act requiring taxation, for the benefit of the State, of all the property of railroad companies, and which, therefore, operated as a withdrawal of the then existing right of limited exemption from taxation, the legislature makes the returns to the comptroller-general by the railroad companies of their property the only basis of the taxation to which, by its provisions, they are to be thereafter subjected. The mode prescribed by the statute for the payment of taxes by railroad companies has reference exclusively to taxes to be paid to the State, and not to municipal corporations. It seems to the court that the legislature did not intend, when imposing, as was done by the statute of 1874, taxation for the State upon all the property of railroad companies, to put upon the same property the additional burden of municipal taxation, which, had not that act been passed, would have been forbidden by the charters of those companies. The city relies upon that statute as opening the door for municipal taxation upon all the property of the railroad company which was taxable under any law of the State. But as the State simply substituted, for taxation to a limited amount, taxation for the benefit of the State upon all the property of the company according to its value, we do not think that the railroad company could be subjected to additional taxation upon the part of the city of Savannah without further legislation to that end."

This reasoning seems applicable to the case at bar. In the case cited, as here with respect to state and county taxes, all taxes were to be paid direct to a state official. No machinery was provided in either act for taxation of the property of the railroad by the municipal authorities. In both cases, the state had full power to deal with the taxes paid to it. In the present case, no way is provided by which the proceeds of any taxes levied by cities or towns could be withdrawn from the state treasury and paid to the municipalities interested. The purpose of the act is general, intended to apply to all state and county taxes to which the property of the company may be subject, and after having provided a uniform and comprehensive scheme for dealing with state and county taxes, expressly exempts the company from another form of taxation, namely, "by cities and towns." This view of the charter was mentioned by Mr. Chief Justice Fuller in *Yazoo Railroad Co.* v. *Thomas*, 132 U. S. 174, 189, when he said:

> "Since upon the expiration of the period of exemption, it would have followed that the property of the company would be subject to taxation at the same rate as other property, it may be that the object of the final clause was to create a scheme of taxation peculiar to the road. Upon the comprehensiveness and validity of such scheme we do not undertake to pass. It was not to take effect until the exemption expired, and the terms in which it was couched do not render the commencement of the exemption other than the Supreme Court held it to be."

But the present case is far stronger for an exemption from municipal taxation than was the *Savannah* case, for here we have the absolute, unequivocal declaration of exemption from taxation by cities and towns in the same sentence which, as it was held below, created a "scheme of taxation peculiar to this road"; while in the former case the exemption was really inferred from the provisions of the act.

Third. So far as the third reason for the decision of the court below is concerned, it is submitted that the case of *McCulloch et al.* v. *Stone*, 64 Miss. 378, affords a sufficient answer, without citing other familiar authorities. In that case it was held in substance that the provision for the appropriation of taxes to the payment of construction debt contained in the charter of the Louisville, New Orleans and Texas Railway Company (now under consideration in No. 244 of this docket) applied only to taxes on property appurtenant or necessary to the operations of the railway company, and could not be extended to property disconnected therefrom. The same reasoning would apply fully to the case at bar, and would operate to limit the exemption from municipal taxation to property actually used by the railroad for the purposes of its incorporation. Such, indeed, is the well-established rule of interpretation. But, whether or not this is so, it is submitted that the construction of the act is not to be determined by judicial inquiry as to the wisdom or policy of legislative enactments; that the true intent of the legislature must control within constitutional bounds, even if it included all property, and that the judicial department has nothing to do with the reasons which underlie that intent. Each department, legislative and judicial, will thus be kept within its proper sphere.

Conclusion.

For the foregoing reasons, it is submitted that the judgment of the Supreme Court of Mississippi should be reversed.

Washington, October Term, 1899.

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APPENDIX.

A.

GENERAL MUNICIPAL TAX LEGISLATION OF MISSISSIPPI CLAIMED TO IMPAIR THE EXEMPTIONS.

Annotated Code of 1892.

2925. *Powers of Mayor and Board of Aldermen.*—The mayor and board of aldermen of every city, town, and village shall . . have power—

2926. FIRST. *Taxes for general revenue and improvements.*—To levy and collect taxes upon all the real, mixed, and personal property within the corporate limits taxable according to the laws of the state, the valuation of such property to be taken from the assessment-rolls of the county; For general revenue purposes, not to exceed six mills on the dollar in any one year; for general improvements, excepting improvements for which special assessments are levied, not to exceed six mills on the dollar in any one year. But a village with less than three hundred inhabitants shall never pay its officers any salary or compensation, nor levy a tax on real or personal property to exceed, for all purposes, four mills on the dollar for any one year. In cities of over five thousand inhabitants a tax, not exceeding twenty mills on the dollar, may be levied for general revenue and improvements and special school-systems, each; but this shall not authorize the levy of a tax in excess of the limit on the power of taxation by such city now fixed by law, unless the same be authorized by a majority vote of the qualified electors.

2927. SECOND. *Taxes to pay bonds and coupons.*—To levy and collect annually taxes on all the taxable property within the municipal limits, in addition to other taxes, in a sufficient amount, for the purpose of paying the interest-coupons as they become due, on all bonds of the municipality now issued or hereafter to be issued, and the bonds themselves, which tax shall be payable only in cash or in matured coupons or bonds.

3035. *Application of the chapter.*—From and after the date that this chapter becomes operative, every municipality in the state shall exercise the powers conferred herein on the class to which it belongs, and shall be governed by the provisions thereof. But an existing municipality, by resolution of its corporate authorities, entered of record and certified to the secretary of state within twelve months after this chapter becomes operative, may elect not to come under the provisions hereof.[1] . .

[1] As matter of fact, no municipalities have elected not to come under the provisions of the code.

B.

MUNICIPAL CHARTERS SUBSEQUENT TO YAZOO AND MISSISSIPPI VALLEY CHARTER WHICH IMPOSED TAXES, AND THEREBY IMPAIRED THE CONTRACT.

Charter of town of Tchula, Laws 1882, sec. 6, p. 328:

That the mayor and aldermen * * * may levy taxes on all the property of the town, real and personal, that may be subject to taxation under the general revenue laws of this State, not exceeding fifty per cent. of the amount of the State tax, to be expended for municipal purposes. * * *

Charter of Yazoo City, Laws 1884, sec. 14, pp. 570, 575:

Said council shall have power by ordinance— * * *

TWENTY-NINTH—To levy and collect taxes on all property and privileges as hereinafter provided.

Sec. 15, p. 576. Said council shall have power by ordinance to levy and collect annually for corporation purposes,

ONE—A tax not exceeding one per centum *ad valorem*, on all property, real, personal and mixed, situated or belonging in said city. * * *

Sec. 16, p. 579, provides specifically for the assessment and collection of taxes.

Charter of town of Lexington, as amended by Laws 1884, sec. 1, p. 746:

All the provisions of the Revised Code of 1880, of this State with reference to the assessment, levy and collection of State and county taxes, be and the same are hereby declared to be the law for the assessment, levy and collection of the taxes of the town of Lexington, * * * provided, the town council may by ordinance, change and alter the time for the assessment, levy and collection of taxes, and provided further, that the rate of taxation for town purposes shall not exceed the rate of one-half of one per cent.

Charter of town of Flora, Laws 1886, sec. 10, p. 501:

The board of mayor and aldermen shall have power from time to time to make provisions for assessing tax valuations of taxable property in said town, that the taxes so assessed if not paid shall be collected in the same manner in which State and county taxes are collected, * * * *provided*, that in no case shall the tax levied by said board of mayor and aldermen exceed one-fourth of one per cent. upon the property subject to taxation.

C.

CONTEMPORANEOUS LEGISLATION OF 1882.

The language of the concluding sentence of section 8 of the charter of the Yazoo and Mississippi Valley Railroad Company is found in the following charters granted at that session of the legislature:

Alabama and Mississippi Railroad Company, Laws 1882, sec. 8, p. 871.

Tennessee and Mississippi Rivers Railroad Company, Laws 1882, sec. 26, p. 1000.

Canton, Aberdeen and Nashville Railroad Company, Laws 1882, sec. 8, p. 1009.

LEGISLATION ON SAME SUBJECT MATTER IN 1884.

In the following charters granted in the succeeding session of 1884, the language of section 8 of the charter of the Yazoo and Mississippi Valley Railroad Company was followed with the significant exception that the final clause relating to taxation by cities and towns was struck out.

Mississippi River and Deer Creek Railroad Company, Laws 1884, sec. 3, p. 919.

Memphis, Oxford and Columbus Railway Company, Laws 1884, sec. 3, p. 920.

Terry, Brandon and Northeastern Railroad Company, Laws 1884, sec. 3, p. 937.

Helena, Memphis and New Orleans Railroad Company, Laws 1884, sec. 3, p. 938.

Arkansas City, Winona and Eastern Railroad Company, Laws 1884, sec. 3, p. 971.

D.

REFERENCES TO SOME PORTIONS OF CONSTITUTION AND LEGISLATION OF MISSISSIPPI RESPECTING MUNICIPAL TAXATION.

CONSTITUTION, 1890, SECTION 192. Provision shall be made by general laws whereby cities and towns may be authorized to aid and encourage the establishment of manufactories, gas-works, water-works, and other enterprises of public utility other than railroads, within the limits of said cities or towns, by exempting all property used for such purposes, from *municipal taxation* for a period not longer than ten years.

ANNOTATED CODE 1892, SEC. 2956 (Powers of Mayors and Aldermen of Cities and Towns):

Thirty-first.—To aid and encourage the establishment of manufactories, gas-works, water-works, and other enterprises of public utility other than railroads, within the corporate limits, by exempting all property used for such purposes from *municipal taxation* for a period not longer than ten years.

REVENUE LAW OF 1890.

(*Laws 1890, c. 2, p. 9.*)

SECTION 1. * * * Cities and towns are prohibited from levying or collecting any other tax on banks or on solvent credits owned by individuals or corporations, greater than 75 per cent. on the State tax.

SEC. 3 (p. 11). That the State tax for the year 1890 is hereby fixed and levied at three and one-half mills on the dollar, and for the year 1891 three mills for general purposes. * * *

E.

REFERENCES TO SOME STATUTES OF MISSISSIPPI, PRIOR TO 1869, RESERVING POWER TO TAX CORPORATIONS.

The legislature expressly reserved power to impose taxes in the following charters:

1833. Commercial and Rail Road Bank of Vicksburg (Laws 1833, p. 129).
1836. Commercial Bank of Rodney (Laws 1836, p. 137).
" Commercial Bank of Manchester (*id.*, p. 142).
" Commercial Bank of Columbus (*id.*, p. 152).
" Tombigbie Rail Road Company (*id.*, p. 227).
" Aberdeen and Pontotoc Railroad and Banking Company (*id.*, p. 241).
" Tallahatchie Rail Road Company (*id.*, p. 283).

In the following instances the charters provided that the capital stock of the respective corporations should "from time to time, as the Legislature may hereafter direct, be subject to be taxed annually." * * *

1833. Grand Gulf Rail Road and Banking Company (Laws 1833, p. 147).
1836. Mississippi and Alabama Rail Road Company (Laws 1836, p. 165).
" Lake Washington and Deer Creek Rail Road and Banking Company (*id.*, p. 215).

The following acts expressed in varying language the same reservation of power to the legislature.

1833. Protection Insurance Company (Laws 1833, p. 84).
" West Feliciana Rail Road Company (*id.*, p. 153).
1836. Gainsville and Narkeetah Rail Road Company (Laws 1836, p. 86).
" Mississippi Springs Rail Road Company (*id.*, p. 296).
1850. Yazoo and Houston Rail Road Company (Laws 1850, p. 352).
1859. Warren Insurance Company (Laws 1859, p. 122).
1862. Columbus Life and General Insurance Company (Laws 1862, p. 295).

In the following charters the legislature expressly declared that the property of the respective corporations should be "subject" or "liable" to taxation:

1836. Commercial Bank of Natchez (Laws 1836, p. 252).
1852. Columbus Life and General Insurance Company (Laws 1852, p. 199).
1854. Memphis and Charleston Railroad Company (Laws 1854, p. 86).
1865. Hernando Mutual Insurance Company (Laws 1865, p. 314).
" Pearl River Manufacturing Company (*id.*, p. 381).

The legislature of 1866–67 (the last session held before the adoption of the Constitution of 1869) in the charter of the Memphis, Holly Springs and Mobile Railroad Company expressly reserved to the state the power to levy income taxes upon the travel on the railroad (Laws 1866–67, p. 637), and reserved the same power in respect to the New Orleans, Mobile and Chattanooga Railroad Company (*id.*, p. 344). In the cases of the Bradford Machinery Company (*id.*, p. 473) and the Hashuqua Manufacturing Company (*id.*, p. 712) provisions were inserted declaring that the property and effects of the companies should remain liable to taxation.

F.

Statutes distinguishing city taxation from state and county taxation.

In the following statutes the legislature of Mississippi expressly exempted, or authorized the exemption of, corporations from city taxation:

1870. Jackson Street Railway (Laws 1870, p. 560).
1873. Natchez Street Railway (Laws 1873, p. 346).
1874. Corinth Street Railway (Laws 1874, p. 236).
" Pass Christian Street Railway (*id.*, p. 196).

1878. Brandon Street Railroad Company (Laws 1878, p. 487).
1882. Pass Christian City Railroad Company (Laws 1882, p. 821).
" City Railroad of Columbus (*id.*, p. 824).
1884. Mississippi State Fair Association (Laws 1884, p. 829).
" West Point Street Railway Company (*id.*, p. 944).
" Front and Asylum Street Railway Company (*id.*, p. 956).
1886. Hill City Street Railway Company (Laws 1886, p. 235).

In the following instances the exemption was from state and county taxation, leaving the corporations subject to city taxation:

1871. Levee Board, District No. 1 (Laws 1871, p. 54).
" Sardis Agricultural and Mechanical Society (*id.*, p. 636).
1884. Helena, Memphis and New Orleans Railroad (Laws 1884, p. 938).
1886. Cooper Normal College (Laws 1886, p. 727).
1888. Montrose High School (Laws 1888, p. 636).
1890. Harper's Baptist College (Laws 1890, p. 564).
" Pleasant Hill High School (*id.*, p. 570).
" Bellefontaine High School (*id.*, p. 574).

In the following acts exemptions were granted from county and municipal taxes:

1888. Deasonville High School (Laws 1888, p. 628).
" Enterprise Street Railway Company (*id.*, p. 518).
" Liberty Male and Female College (*id.*, p. 631).
1890. Pickens High School (Laws 1890, p. 561).
" Saltillo High School (*id.*, p. 577).
" Starkville Street Railway Company (*id.*, p. 660).

The legislature of 1888 saw fit to exempt a hotel in Natchez from payment of county taxes only (Laws 1888, p. 614).

G.

CHARTERS GRANTING EXEMPTIONS FROM TAXATION BETWEEN 1869 AND 1890.

1870. Whitworth Female College, Laws 1870, pp. 380, 381.
" Macon Male School, Laws 1870, pp. 401, 402.
" Attala County Agricultural and Mechanical Association, Laws 1870, pp. 457, 459.
1873. Educational Society of South Mississippi and East Louisiana, Laws 1873, pp. 429, 433.
" Baldwyn Female College, Laws 1873, p. 435.
" University of Columbus, Laws 1873, pp. 438, 439.
" Plowman and Agricultural Society, Laws 1873, p. 462.

1874. Abbeville Female College, Laws 1874, p. 158.
1877. Manufacturing Companies, Laws 1877, p. 72.
1878. Port Gibson, Utica and Crystal Springs Railroad Company, Laws 1878, pp. 463, 472.
" Brandon Street Railroad Company, Laws 1878, pp. 484, 487.
1880. All railroads while in process of construction, Laws 1880, pp. 19, 86.
" Lea Female College, Laws 1880, pp. 291, 293.
" Meridian and Aberdeen Fair Grounds, Laws 1880, p. 633.
1882. Purchasers of railroads at foreclosure, on incorporation, Laws 1882, pp. 47, 48.
" Delta Land and Manufacturing Company, Laws 1882, pp. 533, 537.
" Mississippi Improvement and Manufacturing Company, etc., Laws 1882, pp. 545, 550.
" Mississippi Mining, Milling, etc., Company, Laws 1882, pp. 555, 558.
" Star Mining, Milling and Manufacturing Company, Laws 1882, pp. 55[illegible] 561.
" Marshall Mills, La[illegible] 1882, pp. 561, 564.
" D. Mayer Agricultural and Manufacturing Company, Laws 1882, pp. 564, 565.
" Hope Oil Mill, etc., Company, Laws 1882, pp. 570, 573.
" Warren Cotton Mills Company, Laws 1882, pp. 587, 588.
" Luxapalila Manufacturing and Mining Company, Laws 1882, pp. 588, 591.
" Cooper's Wells Company, Laws 1882, pp. 599, 602.
" Meridian Mills, Laws 1882, pp. 606, 608.
" Blue Mountain Academy, Laws 1882, pp. 667, 668.
" Louisville Male and Female Seminary, Laws 1882, p. 670.
" Palo Alto Academy, Laws 1882, pp. 675, 676.
" Yazoo and Mississippi Valley Railroad Company, Laws 1882, pp. 838, 847.
" Memphis and New Orleans Railroad and Levee Company, Laws 1882, pp. 874, 883.
" Canton, Aberdeen and Nashville Railroad Company, Laws 1882, pp. 1001, 1009.
" Memphis, Selma and Brunswick Railroad Company, Laws 1882, p. 1022.
" Gulf and Ship Island Railroad Company, Laws 1882, pp. 849, 861.
" Birmingham and North-Western Railroad Company, Laws 1882, pp. 1040, 1049.

1882. Tennessee and Mississippi Rivers Railroad Company, Laws 1882, pp. 989, 1000.
" Vicksburg and North-Eastern Railroad Company, Laws 1882, pp. 1015, 1018.
" Meridian, Brookhaven and Natchez Railroad Company, Laws 1882, pp. 1049, 1064.
" Helena, Sardis, Pontotoc and Birmingham Railroad Company, Laws 1882, pp. 885, 895.
" Mississippi Mexican Gulf Railroad Company, Laws 1882, pp. 961, 974.
" Alabama and Mississippi Railroad Company, Laws 1882, pp. 863, 870.
" Mississippi and Arkansaw Railroad Company, Laws 1882, pp. 933, 942.
" Meridian, Winona and Helena Railroad Company, Laws 1882, pp. 943, 959.
" Mississippi, Alabama and Georgia Railway Company, Laws 1882, pp. 975, 988.
" Pass Christian City Railroad Company, Laws 1882, pp. 818, 821.
" City Railroad of Columbus, Laws 1882, pp. 822, 824.
" Georgia Pacific Railway Company, Laws 1882, pp. 824, 826, 834, 837.
1884. Mississippi State Fair Association, Laws 1884, pp. 827, 829.
" Sunflower Navigation Company, Laws 1884, pp. 859, 862.
" Hunt and Huddleston College Faculty Association, Laws 1884, pp. 874, 876.
" Lea Female College, Laws 1884, pp. 878, 879.
" Maury Institute, Laws 1884, pp. 880, 881.
" Grenada Collegiate Institute, Laws 1884, pp. 881, 883.
" Caledonia Branch Railroad Company, Laws 1884, pp. 888, 895.
" Warrior Coal Fields Railroad Company, Laws 1884, pp. 895, 901.
" Tombigbee Railroad Company, Laws 1884, pp. 901, 907.
" Moss Point, Scranton and East Pascagoula Railroad Company, Laws 1884, pp. 911, 915.
" Macon and Tuscaloosa Railroad Company, Laws 1884, pp. 915, 916.
" Mississippi River and Deer Creek Railroad Company, Laws 1884, p. 918.
" Memphis, Oxford and Columbus Railway Company, Laws 1884, pp. 919, 920.
" Port Gibson & Alabama Railroad Company, Laws 1884, pp. 922, 934.

1884. Terry, Brandon and Northeastern Railroad Company, Laws 1884, pp. 936, 937.
" Helena, Memphis and New Orleans Railroad Company, Laws 1884, pp. 937, 938.
" West Point Street Railway Company, Laws 1884, pp. 941, 944.
" Tombigbee and Grand Trunk Railroad Company, Laws 1884, p. 950.
" Natchez and Mobile Railroad Company, Laws 1884, pp. 951, 953.
" Front and Asylum Street Railway Company, Laws 1884, pp. 955, 956.
" Mississippi River and Mexican Gulf Railroad Company, Laws 1884, pp. 957, 963.
" Rodney, Jackson and Tuscaloosa Railroad Company, Laws 1884, pp. 968, 969.
" Arkansas City, Winona and Eastern Railway Company, Laws 1884, pp. 969, 971.
" Mississippi River and Eastern Railroad Company, Laws 1884, pp. 975, 986.
" Tallahatchie Valley Railroad Company, Laws 1884, pp. 987, 992.
" New Orleans and Northwestern Railway Company, Laws 1884, pp. 994, 1004.
" Meridian and Brunswick Railroad Company, Laws 1884, pp. 1005, 1013.
" Helena, Water Valley, Aberdeen and Birmingham Railroad Company, Laws 1884, pp. 1014, 1023.
1886. Kansas City, Memphis and Birmingham Railroad Company, Laws 1886, pp. 191, 200.
" Memphis, Birmingham and Atlantic Railroad Company, Laws 1886, pp. 203, 207.
" Pensacola and Memphis Railroad Company of Mississippi, Laws 1886, pp. 209, 221.
" Vicksburg, Yazoo-Delta and North Eastern Railway Company, Laws 1886, pp. 222, 227.
" Hill City Street Railway Company, Laws 1886, pp. 232, 235.
" Mississippi and Louisiana Bridge and Railroad Company, of Natchez, Mississippi, Laws 1886, pp. 237, 244.
" Port Gibson Female College, Laws 1886, p. 634.
" Cooper Normal College, Laws 1886, pp. 726, 727.
" Pittsboro Male and Female College, Laws 1886, pp. 734, 735.
1888. Macon, Tuscaloosa and Birmingham Railroad Company, Laws 1888, pp. 490, 499.

1888. Helena, Tupelo and Decatur Railroad Company, Laws 1888, pp. 500, 508.
" Brookhaven, Columbia and Mobile Railroad Company, Laws 1888, pp. 508, 509.
" Enterprise Street Railway Company, Laws 1888, p. 518.
" Vicksburg Electric Street Railway Company, Laws 1888, pp. 522, 523.
" Mississippi and Gulf Railroad Company, Laws 1888, pp. 542, 546.
" Mississippi Southern Railway Company, Laws 1888, pp. 548, 557.
" Columbus, Fulton and Eastport Railroad Company, Laws 1888, pp. 558, 563.
" Greenville and Durant Railroad Company, Laws 1888, pp. 563, 569.
" Waynesboro, Pascagoula and Gulf Coast Railroad Company, Laws 1888, pp. 570, 575.
" Greenville, Egypt Ridge and Bogue Phaliah Railway Company, Laws 1888, pp. 584, 591.
" Meridian Cotton Mills, Laws 1888, pp. 595, 596.
" Natchez Hotel, Laws 1888, p. 614.
" Deasonville High School, Laws 1888, p. 628.
" Liberty Male and Female College, Laws 1888, pp. 630, 631.
" Tombigbee Normal Institute, Laws 1888, p. 632.
" Montrose High School, Laws 1888, pp. 635, 636.
" Gulf Port Dental College, Laws 1888, p. 638.
" Mt. Carmel Normal College, Laws 1888, pp. 639, 640.
1890. Millsaps College, Laws 1890, pp. 553, 555.
" Pickens High School, Laws 1890, p. 561.
" Harper's Baptist College, Laws 1890, pp. 563, 564.
" Pleasant Hill High School, Laws 1890, pp. 569, 570.
" Hebron High School, Laws 1890, pp. 570, 571.
" Bellefontaine Male and Female High School, Laws 1890, p. 574.
" Saltillo High School, Laws 1890, p. 577.
" Waynesboro Normal Institute and College, Laws 1890, pp. 581, 582.
" Old Myrtle Normal College, Laws 1890, pp. 583, 584.
" Starkville Street Railway Company, Laws 1890, pp. 655, 660.
" Nashville and Mississippi Delta Railroad Company, Laws 1890, pp. 682, 687.
" Mississippi River, Alabama and Chattanooga Railroad Company, Laws 1890, pp. 703, 713.

1890. Greenville, Nashville and Chattanooga Railway Company, Laws 1890, pp. 732, 741.

" Columbus and Fulton Railroad Company, Laws 1890, pp. 743, 751.

" Alabama, Mississippi and Western Railroad Company, Laws 1890, pp. 751, 756.

" South Mississippi Railroad Company, Laws 1890, pp. 759, 767.

" Yazoo Delta Central Railway Company, Laws 1890, pp. 769, 778.

H.

Constitution of 1869, as to county taxes.

Article xii.

Sec. 16. No county shall be denied the right to raise, by special tax, money sufficient to pay for the building and repairing of court houses, jails, bridges, and other necessary conveniences for the people of the county; and money thus collected shall never be appropriated for any other purpose; *Provided*, The tax thus levied shall be a certain per cent. on all *tax* levied by the State.